CITY OF MIAMI BEACH, FLORIDA

PERSONNEL RULES

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RULE I. GENERAL PROVISIONS

- SECTION 1: PURPOSE OF RULES: These Rules are adopted in pursuance of Section 2 and Section 6 of AN ACT CREATING A CIVIL SERVICE SYSTEM FOR CERTAIN OFFICERS AND EMPLOYEES OF THE CITY OF MIAMI BEACH, FLORIDA, for the furtherance of personnel activities and transactions on the sole basis of merit and competence to the best interests of the City and without regard to personal, political, religious, and other extraneous matters.
- **SECTION 2: POSITIONS COVERED BY RULES**: These Rules apply to all positions in the Classified Service of the City, except as herein otherwise noted.
- **SECTION 3: PROHIBITIONS AND RESTRICTIONS**: The following and such other acts or activities as are determined to be detrimental to the best service to the City and as shall be so specified in Administrative Regulations shall be prohibited.
 - (a) **DISCRIMINATION**: No person in the Classified Service of the City or seeking admission thereto shall be appointed, promoted, removed, or in any way favored or discriminated against because of his/her political or religious opinions or affiliations or because of racial, national origin, sex, non-disabling physical handicap, or other non-merit factors. No question in any examination, in any application form, in any other personnel proceedings, or of any Appointing Officer or supervising official shall be so framed as to attempt to elicit information concerning such opinions, affiliations, or origin of an applicant, eligible or employee.
 - 1. Any person seeking admission to the Classified Service or any employee in the Classified Service, regardless of employment status, who has been discriminated against in violation of this Section, shall have a right to report such violation to the Personnel Board within ten (10) days after such act of the discrimination occurred. The Personnel Board shall promptly conduct such investigation as it may deem advisable relative to such alleged act of discrimination and, at the conclusion of such investigation, the Personnel Board shall direct administrative action consistent with its findings.

- **(b) POLITICAL ACTIVITY**: No person who holds a position in the Classified Service of the City shall:
 - 1. use his/her official authority or influence for the purpose of interfering with an election, or a nomination of office, or coercing or influencing another person's vote, or affecting the result thereof; or
 - directly or indirectly coerce or attempt to coerce, command or advise any other officer or employee to pay, lend, or contribute any part of his/her salary, kick back any sum of money, or anything else of value to any party, committee, organization, agency or person for political purposes; or
 - 3. nothing contained in this Section shall be deemed to prohibit any person in the Classified Service from expressing his/her opinions on any candidate or issue or from participating in any political campaign during his/her off-duty hours so long as such activities are not in conflict with the provisions of subsections (1), (2), or (3) of this Section.
- (c) ABUSE OF INFLUENCE: No person shall corruptly use or promise to use or obtain, either directly or indirectly, any authority or influence in order to secure or aid any person in securing for himself/herself or another, any office or employment in the Classified Service, or any promotion or increase in compensation therein as a reward for political influence or service; nor shall any person, by means of threats or coercion, induce or seek to induce anyone in the Classified Service to resign his/her position or waive his/her right to certification, appointment or promotion.

(d) EMPLOYMENT RESTRICTIONS:

- 1. No person who holds a position in the Classified Service of the City shall engage in any other employment or pursue any other gainful occupation than that involved in his/her City duties except as such other work shall be formally approved by the Appointing Officer under whom he/she serves and by the City Manager. Any person may be appointed to more than one part-time position in the service of the City provided that the working hours and do not conflict.
- 2. No more than one member of the same family who are living together as a family unit shall hold Regular status in the same Division within the same Department where one evaluates or supervises the other. (Amended 8/18/89)
- 3. Any employee in the Classified Service who is elected to any public

office in the City of Miami Beach or as an elected officer in Metro Dade County shall be automatically removed, and unless he/she shall have properly resigned prior to becoming a candidate, he/she shall forfeit all Civil Service rights.

- **SECTION 4: VIOLATION OF RULES**: Violations of any of the provisions of these Rules shall be adequate grounds for removal, or refusal of the Personnel Director to certify a payment of salary or wages to a person violating or permitting violations of these Rules, and in addition, thereto, any person violating these Rules shall be subject to the penalties prescribed in the Civil Service Act for violations of any of the provisions of the Act.
- **SECTION 5:** AMENDMENT AND REVISION OF RULES: Amendments and revisions of these Rules shall be initiated by the Personnel Director and/or Personnel Board and such amendments shall be adopted according to the procedure established by the Civil Service Act.
- **SECTION 6: ADMINISTRATIVE REGULATIONS**: The Personnel Director shall promulgate, amend and rescind Administrative Regulations for the routine or special conduct of personnel matters, which Regulations shall not conflict with the Civil Service Act or these Rules.
- **SECTION 7: ASSISTANT PERSONNEL DIRECTOR**: The Personnel Director may designate an officer or employee to act as his/her assistant, in which event the Assistant Personnel Director shall be empowered to perform such of the duties of the Personnel Director as the latter may require.
- **SECTION 8: DEFINITIONS**: For the purpose of these Rules, certain terms, phrases, and words and their derivatives shall be construed as set out in this Section. Other terms, phrases, and words not herein defined shall be construed in the light of their context. Words used in the singular shall include the plural and the singular, and words used in the masculine gender shall include the feminine and the feminine the masculine. Whenever a Paragraph, Section, or Rule is referred to, it shall be understood to refer to a Paragraph, Section or Rule of these Rules unless otherwise specifically stated.
 - (a) **ADVANCEMENT**: Advancement means a salary increase within an arranged schedule or established scale of pay for a class of positions made without an examination.
 - **(b) APPOINTING OFFICER**: Appointing Officer means the officer or person in a Department or unit of the City Government who is empowered to

make employments. The words "Appointing Officer" and "Appointing Authority" shall be construed as synonymous terms.

(c) APPOINTMENTS:

- **EMERGENCY:** Signifies the appointment in cases of emergency for periods not exceeding thirty (30) days, without regard to Civil Service procedures.
- **PROVISIONAL:** Signifies the appointment to any Classified position without competition, but with the approval of the Personnel Director, pending the establishment of an eligible list or during the approved absence of a Regular employee.
- **3. PROBATIONARY:** Signifies the appointment from an appropriate eligible list to any Classified position, pending the satisfactory completion of the Probationary period and includes all persons employed at the effective date of the Civil Service Act and all amendments as hereinafter referred.
- **4. REGULAR:** Signifies the satisfactory completion of the Probationary period following a Probationary appointment or promotion and immediately preceding a Regular appointment, and includes all persons employed at the effective date of the Civil Service Act and all amendments as hereinafter referred.
- 5. TRANSITIONAL: Signifies a Classified position sufficiently similar in duties and responsibilities that the same descriptive title may apply to a like classification with the same salary range, but which shall be maintained as a separate Transitional classification so that the Transitional employee will have the opportunity for transfer or promotion to a Regular position in the City's work force in the Classified Service.
- (d) CIVIL SERVICE ACT: As employed in these Rules, the term Civil Service Act refers to "AN ACT CREATING A CIVIL SERVICE SYSTEM FOR CERTAIN OFFICERS AND EMPLOYEES OF THE CITY OF MIAMI BEACH, FLORIDA."
- (e) **CLASSIFICATION**: Refers to a group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be reasonably applied to each position, the same qualifications reasonably required and the same salary range applied with equity.
- **(f) CLASSIFIED SERVICE:** This term applies to all positions in the service of the City except those specifically placed in the Unclassified Service by the Civil Service Act.

- **(g) DEMOTION:** Demotion means a reduction in employment status to a class having a lower maximum rate of pay.
- (h) **ELIGIBLE**: Eligible means the condition of being qualified, or a person who has become qualified by examination, prior service or otherwise in accordance with the provisions of the Civil Service Act or these Rules to serve in a Classified position in the service of the City.
- (i) **ELIGIBLE LISTS:** Eligible lists refer to lists of persons who have become qualified for appointment to the Classified Service of the City in any of the ways established by law or rules for becoming so qualified.
 - 1. Original Entrance Lists: Means the lists of names of persons who have been successful in open competitive examinations and who are otherwise eligible for employment in Classified positions.
 - **2. Promotional Lists:** Means the lists of names of employees who have been successful in promotional examinations and are eligible for appointment to higher positions.
 - 3. **Re-Employment Lists:** Means the lists of names of persons who have been previously employed in the service of the City in Classified positions and who have been separated from the service in good standing and are entitled to have their names certified to Appointing Officers.
- (j) LAY-OFF: Means the indefinite or temporary discontinuance of employment because of lack of work or funds or because of material changes in organization, but without reference to cause on the part of the employees concerned.
- **(k) PROBATIONARY PERIOD:** Means a working test period following a Probationary appointment or promotion and immediately preceding a Regular appointment or promotion in the Classified Service.
- (l) **PROMOTION:** Means a change of status in accordance with these Rules from a position in a lower class to a position in a higher class.
- (m) **REJECTION:** Means the removal of an employee after a Probationary appointment or promotion, during or at the end of the Probationary period, because of failure to satisfy the requirements of the Appointing Officer or of these Rules.

- (n) **REMOVAL:** Means the separation of a Regular employee from the Classified Service of the City for cause.
- (o) **SPECIFICATIONS:** Means the Schedule of Specifications in which are set up the minimum requirements as to physical conditions, experience, training and other prerequisites, together with statements of duties and other duty requirements.
- (p) SUSPENSIONS: Means the temporary removal from duty in the Classified Service without compensation for purposes of discipline.

SECTION 9: EFFECTIVE DATE OF RULES: These Rules and any amendments thereto shall not be approved by the Personnel Board until thirty (30) days after being presented to the City Manager and employee representatives of the Personnel Board.

RULE II. THE POSITION CLASSIFICATION PLAN

- **SECTION 1: PURPOSE**: It is the purpose of the Position Classification Plan to provide an orderly inventory and appraisal of positions in the City service so that the following ends may be attained:
 - (a) Equality of pay on the basis of substantially similar duties and responsibilities.
 - **(b)** Proper pay differences between positions which differ materially in duties and responsibilities.
 - (c) Improved recruiting through appropriate definitions of positions and the establishment of reasonable standards of fitness for entrance to or promotion within the service.
 - (d) Orderly control of personnel changes affecting employees while in the service, such as transfers, promotions, demotions, leaves of absence, and other internal personnel status changes.
- **SECTION 2: PREPARATION OF THE PLAN**: The Personnel Director shall survey and record the duties and responsibilities of all positions in the Classified Service and after consultation with the Appointing Officers and principal supervisors shall recommend a Classification Plan covering all such positions. This plan shall consist of a grouping of positions substantially similar in duties and responsibilities, appropriate and descriptive titles for each class of positions, and written Class Specifications which shall describe the typical duties and responsibilities characteristic of the positions in the classes and which specify the training, experience, and other qualifications to be required of applicants for positions in each class.
- **SECTION 3:** CLASS SPECIFICATIONS INTERPRETED: The Specifications for the various classes of positions in the Classified Service shall have the following force and effect:
 - (a) The are descriptive and explanatory and are not restrictive. The use of a particular expression or illustration as to duties, qualifications, or attributes shall not be held to exclude others not mentioned if such others are similar as to kind or quality.

- (b) In determining the allocation of a given position, the specifications shall be considered as a whole. Consideration shall be given to the general duties, specific examples, responsibilities, minimum entrance qualifications, and relationship to other classes as affording an inclusive picture of the employment the class is intended to embrace.
- (c) The statement of duties is not intended to prescribe what specific duties shall attach to a given position nor to limit the power of the Appointing Officer to modify or alter detailed tasks involved in the duties of any position. When a substantial change in the duties is made, except for a temporary period or by the addition of duties which are incidental to the main employment, such change shall be reported to the Personnel Director with view to a possible re-classification of the position. The fact that the actual tasks performed do not appear in the specifications shall not imply that the position is necessarily excluded from the class, provided that the tasks constituting the main work are duly covered.

Similarly, any example cited, taken with reference to the statement of typical duties and the qualifications required shall not be construed as finally determining whether a position shall be included within the class. Although they may not be mentioned in the specifications, certain qualifications which should properly apply to practically all positions, such as suitable age, sobriety, and industry are taken for granted.

SECTION 4: ADOPTION AND AMENDMENT OF THE PLAN: Before becoming effective, the Position Classification Plan shall be approved and adopted by the Personnel Board. Thereafter, its provisions shall be observed in handling all personnel transactions and activities. When changes in City organization or operations require the creation of new classes of positions or other amendments to the Position Classification Plan, these shall be adopted according to the same procedure established for the original adoption of the Plan.

SECTION 5: ALLOCATION OF POSITIONS TO CLASSES

- (a) After adoption of the Classification Plan by the Personnel Board, the Personnel Director shall allocate every position in the Classified Service to one of the classes established by the Plan.
- (b) New positions in the service and positions which have so changed in work content as to require allocation to a different class, shall be so reallocated in accordance with the same procedure established for original allocation of positions.
- (c) Employees incumbent in positions so reallocated or reclassified shall

automatically retain their status where the duties of such old and new positions are of an overlapping or closely related nature, and the compensation of no employee so transferred shall be reduced thereby. If, however, a position is reallocated to a high class because of changed duties or responsibilities, the incumbent may be required by the Personnel Director to demonstrate fitness by passing a non-competitive examination or may be transferred to a vacant position in the class to which his/her position was formerly allocated, or his/her name shall be placed on the re-employment list for the class to which his/her position was formerly allocated. Reallocations of positions to higher classes shall be subject to the approval of the City Manager.

SECTION 6: MAINTENANCE OF THE CLASSIFICATION PLAN

- (a) New positions to be created in any department or division shall be reported to the Personnel Director and he/she shall study the duties and the responsibilities of such new positions to provide a basis for determining the proper classification of such new positions.
- (b) Appointing Officers shall report to the Personnel Director the addition of new assignments or the taking away of old ones which may affect the duties and responsibilities of any position if it is believed that such changes will be permanent. The Personnel Director shall investigate such changes in order to provide a basis for determining the effect of such changes upon the classification of the position.
- (c) The Personnel Director shall make periodic investigations of any and all positions in order to determine changes in duties and responsibilities of any position which may affect the status of the Classification Plan.
- (d) An employee may, at any time, make a request in writing to the Personnel Director for a review of the allocation of his/her position. This request shall set forth the employee's reasons for the review, and if such reasons appear to be substantial, the Personnel Director shall make an investigation of the position with a view to determining the correctness or incorrectness of the allocation and the adjustment necessary.

RULE III. THE COMPENSATION PLAN

- **SECTION 1: PURPOSE**: It is the purpose of the Compensation Plan to provide an orderly and fair means for the compensation of employees on the basis of the work which they perform and the efficiency of their performance.
- SECTION 2: PREPARATION OF THE PLAN: At least sixty (60) days before the beginning of each fiscal year, the Personnel Director shall prepare a Compensation Plan. This Plan shall consist of a schedule of pay for each class of positions in the Classified Service indicating the minimum and maximum rate of pay for each class. In arriving at such salary ranges, consideration shall be given to prevailing rates of pay in private business, to current cost of living, and to the City's financial condition and policies. After making any adjustments in the Plan which he/she deems necessary, the City Manager shall submit the Compensation Plan to the City Commission, which, after due reference to the proposed budget, shall adopt, or modify and adopt, the Compensation Plan.
- **SECTION 3: EFFECT OF THE PLAN**: The Compensation Plan, as adopted by the City Commission, shall constitute the official schedule of salaries for positions in the Classified Service. No person shall be assigned at a salary greater than the maximum or less than the minimum fixed in the Compensation Plan for his/her class.
- SECTION 4: INSTALLATION OF THE COMPENSATION PLAN: The Director of Personnel shall prepare regulations indicating how the Compensation Plan shall be applied to incumbent employees; such regulations to be transmitted with the first Compensation Plan submitted to the City Commission pursuant to the Civil Service Act and these Rules.

SECTION 5: ADMINISTRATION OF THE COMPENSATION PLAN:

(a) The entrance salary for new appointees to positions in the Classified Service of the City shall be within the salary range for the class of positions to which they are appointed.

- (b) Salary for a reinstated employee shall be within the salary range for the classification to which he/she is appointed.
- (c) When an employee is transferred from a position in one class to another position in the same class, no change in salary shall be made because of such transfer.
- (d) When an employee is promoted to a position in a higher class and his/her salary is lower than the minimum of the higher class, his/her salary immediately shall be increased to within the salary range of the higher class.
- (e) When an employee is demoted to a position in a lower class and his/her salary is higher than the maximum of the lower class, his/her salary immediately shall be decreased to no higher than the maximum of the lower class.
- (f) An annual review of the salary of each employee shall be made by the Personnel Director in consultation with the Appointing Officer, and adjustments within the range may be made after an analysis of the performance evaluation and length of service of each employee, and after considering the recommendations of the Appointing Officer, provided that in no case shall the salary of any such employee be increased above the maximum established for the class; and provided further, that such salary adjustments shall receive the approval of the City Manager.
- (g) Amendments of the Compensation Plan with supporting data justifying such changes as prepared by the Personnel Director may be submitted by the City Manager at any time to the City Commission for approval.

RULE IV. CERTIFICATION OF PAYROLLS

SECTION 1: CERTIFICATION: Prior to the payment of any salary, wage, or other compensation for services to any person holding a position in the Classified Service, the Personnel Director shall certify that the persons named on a payroll, estimate, or account therefore have been appointed or employed in pursuance to and have fully complied with the terms of the Civil Service Act and these Rules.

SECTION 2: REFUSAL TO CERTIFY: Before making any such certification, the Personnel Director shall take all appropriate steps to assure himself/herself that each payroll, estimate, or account is prepared in accordance with the provisions of law and these Rules. If any item fails to comply with such provisions, he/she shall refuse to certify such item.

SECTION 3: ILLEGAL APPOINTMENT: All Officers of the City shall comply with and shall aid in all proper ways in carrying into effect the provisions of the Civil Service Act and these Rules. No Appointing Officer shall select any person for appointment, employment, or promotion except in accordance with the provisions of the Act and these Rules. Any person employed or appointed contrary to the provisions of the Act and/or of these Rules shall have no claim upon the funds of the City for salary or wage payment.

RULE V. APPLICATION AND EXAMINATION

SECTION 1: NOTICE OF EXAMINATIONS

(a) ENTRANCE TESTS: The Personnel Director shall give public notice of all examinations for entrance into the Classified Service. Such notice shall be given by publication in a newspaper of general circulation in the City, and shall be posted in or near the office of the Personnel Department and copies thereof may be distributed among public officials, educational institutions, professional and vocational societies, and such other individuals and organizations as the Director may in each case decide. Public notices shall specify the title and minimum compensation of the position, the minimum qualifications required, the final date on which applications will be received, and any other pertinent information consistent with the provisions of these Rules. (Amended 8/18/89)

(b) CONTINUOUS TESTS:

- 1. The Personnel Director, when he/she deems it advisable for the good of the service, may, with the approval of the Personnel Board, give examinations on a continuous basis.
- 2. Notice of continuous examinations shall be posted in or near the office of the Personnel Division and shall be published at least once every ninety (90) days in a newspaper or general circulation in the City of Miami Beach.
- examinations to be held shall be given by conspicuous posting of bulletins in the offices of the departments or divisions whose employees are eligible to compete, for not less than one (1) week prior to closing date for application acceptance, or such notices may be given by individual communications to the employees eligible for such promotional tests.
- SECTION 2: QUALIFICATION REQUIREMENTS OF APPLICANTS: All applicants must meet the minimum qualifications prescribed in the Class Specifications for the class of positions for which application is made. When a position for which an examination is to be held has not yet been allocated to a class in accordance with these Rules, the minimum qualifications to be required of applicants shall be established by the Personnel Director with the approval of the Personnel Board.

SECTION 3: APPLICATIONS: All applications shall be made on forms to be prescribed by the Personnel Director. On such forms the Director may require information covering personal characteristics, education, experience, references and other information he/she deems pertinent, including a photograph. All applications shall be signed and the truth of all statements contained therein certified by such signature. Applications must be filed with the Personnel Division within the time limit specified in the public notices of examination.

SECTION 4: DISQUALIFICATION OF APPLICANTS:

- (a) The Director may refuse to examine an applicant or after examination remove his/her name from the resulting eligible list, or refuse to certify for appointment any applicant: who is found to lack any of the preliminary requirements established for that classification; who is physically so disabled as to be rendered unfit for performance of the required duties; who is addicted to the habitual use of narcotics or any intoxicating liquors; who has been found guilty of any infamous or notoriously disgraceful conduct; who has been dismissed from the public service for delinquency; who has made false statements of material fact in his/her application; or who has violated the provisions of these Rules.
- (b) No Classified employee removed from his/her employment by disciplinary action, or who resigns therefrom after the institution of disciplinary action, shall be eligible to compete in any examination for entrance or re-entrance into the Classified Service except as is hereinafter provided:
 - 1. After a period of at least three (3) years have elapsed from the date of resignation or removal of such Classified employee, he/she shall have the right to apply to the Personnel Board for reinstatement of his/her eligibility to compete in examinations for entry into the Classified Service. (Amended 3/20/87)
 - 2. As soon as is practicable after such application has been made, the Personnel Board shall set a time and a place for conducting a hearing to determine whether such former employee has demonstrated his/her rehabilitation so as to qualify him/her for eligibility to compete in entrance examinations. Notice of the time and place of such hearing shall be given to the applicant, to the head of his/her former division and department, and to the City Manager. All interested persons may be heard at such hearing, which shall be conducted by the Personnel Board on an informal basis and for the sole purpose of determining the rehabilitation of the applicant.

- 3. If the Personnel Board, after such hearing, shall determine that the applicant has been rehabilitated so as to be qualified to become a City employee, such person thereafter shall be eligible to compete in original entrance examinations into the Classified Service, provided he/she meets the specified requirements for such examination and, provided further, he/she shall be given no credit, in any way, for any prior service he/she may have had with the City. It is the declared purpose of this Section that the person so taking such examination will receive no credit on such examination, and, if appointed to the Classified Service, will receive no credit for longevity or otherwise for any service he/she may have had with the City prior to his/her being declared rehabilitated.
- 4. If the Personnel Board, after such hearing, finds and determines that such applicant is not so rehabilitated, he/she shall be denied eligibility to compete in examinations for entrance or re-entrance into the Classified Service, and such action of the Personnel Board shall be final. In such case, no further or later applications for restoration of eligibility of such person shall be considered by the Personnel Board.
- (c) No Probationary/Provisional employee removed from his/her employment by disciplinary action, or who resigns therefrom after the institution of disciplinary action, shall be eligible to compete in any examination, except as hereinafter provided: (Amended 7/17/87)
 - 1. After a period of at least three (3) years have elapsed from the date of resignation or removal of such Probationary/Provisional employee, he/she shall have the right to apply to the Personnel Director for reinstatement of his/her eligibility to compete in examination for entry into the Classified Service. (Amended 7/17/87)
 - 2. If the Personnel Director, after investigation, shall determine that the applicant has been rehabilitated so as to be qualified to become a City employee, such person thereafter shall be eligible to compete in original entrance examinations into the Classified Service, provided he/she meets the specified requirements for such examination, and provided further, he/she shall be given no credit, in any way, for any prior service he/she may have had with the City. It is the declared purpose of this Section that the person so taking such examination will receive no credit on such examination, and, if appointed to the Classified Service, will receive no credit for longevity or otherwise for any service he/she may have had with the City to his/her being declared rehabilitated. (Amended 3/20/87)

- 3. If the Personnel Director, after investigation, finds and determines that such applicant is not rehabilitated, he/she shall be denied eligibility to compete in examinations for entrance or re-entrance into the Classified Service and such action of the Personnel Director shall be final. In such case, no further or later applications for restoration of eligibility of such person shall be considered by the Personnel Director. (Amended 3/20/87)
- (d) No person shall be permitted to file an application to take an examination for a classification if such person has taken an examination for the same classification within ninety (90) days prior to such filing.
- SECTION 5: PROMOTIONAL EXAMINATIONS: Whenever, in the opinion of the Personnel Director, vacancies in the service of the City may be satisfactorily filled by the promotion of Regular employees, he/she shall conduct promotional tests among such Regular employees as he/she shall determine to be eligible to compete. Other qualifications for participating in promotional tests shall be established by the Personnel Director and approved by the Personnel Board and announced prior to the holding of the examination. Length of service shall be a factor in such examinations, and the weight to be given shall be established for such examination by the Personnel Director.
- **SECTION 6: SCOPE OF EXAMINATIONS**: Examinations may consist of written tests, oral tests, performance tests, and evaluations of training and experience, or tests of knowledge, manual skill, or physical ability or fitness, or any combination thereof. With the approval of the Personnel Board, tests may be non-competitive for positions which require peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character or in case the character of the work or the conditions of employment or compensation make it impracticable to secure through competitive assembled tests a sufficient number of qualified eligibles to meet the needs of the service. (Amended 2/15/91)
- **SECTION 7: CONDUCT OF EXAMINATIONS**: The Personnel Director shall be responsible for the conduct of all examinations, but he/she may arrange for persons qualified therefor to prepare and administer part or all of any tests in any examination.
 - (a) Identification of persons taking competitive written tests may be concealed through the use of identification numbers instead of names on all test papers where, in the opinion of the Personnel Director, it is feasible and desirable to use this method, and in such cases all test papers bearing names of applicants or any other identifying mark than the assigned number shall be rejected and the applicant notified.
 - **(b)** The Personnel Director shall see that proper precautions are taken to prevent

any unauthorized person from securing, in advance, questions or any other material to be used in any test, unless such questions or other material is available for all applicants. He/she shall also take action to prevent the identification by examiners, prior to completion of the rating of the work of all testees, of any testee's work in such tests as require the concealment of identity.

- (c) When any testee is found using any extraneous, forbidden, or unfair source of information, memoranda, pamphlets, books, or notes to assist him/her in answering the questions or doing the assigned work, the person in charge may take from such testee any such material and he/she shall in such case make a written statement of the circumstances to be submitted along with the test papers or other work of the testee to the Personnel Director, who may take such action as he/she considers the circumstances warrant, and may, at his/her discretion, disqualify the testee.
- (d) Whenever, in the opinion of the Personnel Director, the conditions under which any test or portion of the test has been conducted were not such as to be fair to the testee, the Personnel Director may order that such test or portion of test be administered again.

SECTION 8: RATING OF EXAMINATIONS: In all examinations the minimum grade or rating through which eligibility on an employment list may be earned shall be determined by the Personnel Director. Such final grade shall take into consideration all factors of the examination, including where the Director deems it appropriate, credits for training, experience, past service with the City, and other qualifying elements as shown in the application of the person examined, by oral interviews, or by other verified information. Unless as otherwise approved by the Personnel Board, if any promotional competitive examination be divided into two (2) parts, a written portion and an oral portion, that failure of the applicant on the oral portion of the examination shall not automatically disqualify the applicant.

SECTION 9: NOTICE OF RESULTS OF EXAMINATION: As soon as the ratings of an examination have been completed, each competitor shall be notified by mail whether he/she attained the minimum passing grade, and if so, of his/her final rating and relative position on the eligible list established as a result of the examination. The markings and test papers of each person examined shall be open to his/her own personal inspection for one month after the date of the examination in the office of the Personnel Department during business hours. A manifest error in the marking of any examination, if called to the attention of the Personnel Director within one month after the establishment of an eligible list resulting from such examination, shall be corrected by him/her.

SECTION 10: PRESERVATION OF WORK OF TESTEES: The applications, test paper and other work of the testees who receive scores less than the minimum required in any test, group of tests, or tests as a whole and whose names are not therefor placed on the eligible list resulting from the tests shall be preserved for a period consistent with then existing Federal and State laws governing preservation of public records, after the approval and establishment of the list of successful applicants, but may be destroyed thereafter at the discretion of the Personnel Director. The applications, test papers and other work of testees whose names appear on the list of successful candidates shall be preserved for the life of the eligible list resulting therefrom and shall be open to inspection by Appointing Officers for consideration in making appointments; but may be destroyed thereafter at the discretion of the Personnel Director after a period consistent with then existing Federal and State laws governing preservation of public records, unless such persons shall receive an appointment, in which case such applications, test papers, and other work shall become part of such persons's record.

SECTION 11: POSTPONEMENT AND CANCELLATION OF TESTS: All examinations shall normally be held upon the dates fixed by the Personnel Director in the published notices; but the Personnel Director shall have the right to postpone any examination because of an inadequate number of applicants, because of non-attendance of special examiners or for other sufficient cause, or to cancel any examination the holding of which becomes unnecessary because of a change in the personnel requirements of Appointing Officers.

RULE VI. ELIGIBILITY LISTS

SECTION 1: GENERAL PROVISIONS

(a) ARRANGEMENT OF LISTS: The names of persons eligible for appointment to each classification under the Classified Service shall be arranged on three (3) lists; the Re-Employment List, the Promotional List, and the Original Entrance List.

(b) RE-ARRANGEMENT OF ELIGIBLES:

- 1. If at any time after the creation of an eligible list, and during the life of such list, the Personnel Director has reasons to believe that any person should be disqualified for appointment because of incapacity developed subsequent to his/her name having been placed on such list, because of false statements made in his/her application, or for other similar reasons, such person shall be notified and given an opportunity to be heard. If such person shall fail to appear, or if upon being heard shall fail to satisfy the Personnel Director, his/her name shall be re-arranged to its proper place on the list or removed as the circumstances require.
- 2. Upon the correction of an error in the marking of an examination as provided in Rule V, Section 9 hereof, the name of such examinee shall be rearranged to its proper place on the list or removed as the circumstances require.

(c) REMOVAL OF NAMES FROM LISTS:

- 1. Each person whose name appears on an eligible list shall file with the Personnel Director, written notice of any change of address, and failure to do so may cause his/her name to be removed from the list.
- 2. The name of any person appearing on any eligible list may be removed by the Personnel Director if the candidate fails to respond within three (3) days of a notice of certification, if he/she declines an appointment without reasons satisfactory to the Personnel Director, or if he/she cannot be located by the postal authorities. In case of such removal the Personnel Director shall notify the candidate affected at his/her last known address. The person so removed may be reinstated only if a thoroughly satisfactory explanation of the circumstances is made to the Personnel Director.

- 3. The name of any person appearing on an open competitive eligible list may be removed by the Personnel Director:
 - (a) When such person has been certified for appointment and has been passed over for such appointment three (3) times; or
 - (b) Declines acceptance of an employment interview for a total of three (3) times. (Amended 11/17/89)

Director shall maintain a general Re-Employment List consisting of the names of persons who have occupied positions in such class in the Classified Service as Regular employees and who have been separated without misconduct on their part. The names of employees who have been so separated may also be placed on Re-Employment Lists for such other classes of positions as the Personnel Director deems appropriate. The order in which names shall be placed on Re-Employment Lists shall be determined by the Personnel Director after consideration of the performance evaluations of the employees while in service and the length of their previous service with the City. The duration of eligibility of names on Re-Employment Eligible Lists shall expire individually at the conclusion of one (1) year.

Director shall prepare a Promotional List of persons who achieved passing scores in the examination arranged in order of the rating achieved. Whenever it becomes necessary to hold subsequent examinations in order to obtain additional eligibles for a Promotion List, the Personnel Director may combine the existing list with the new list for the same class by arranging all the eligibles in order of rating received without regard to time of examination. Promotional List shall expire one (1) year after the posting of the results of a promotional test, or where lists have been combined, one (1) year after the date of the combining of the new with the old lists.

SECTION 4: ORIGINAL ENTRANCE LISTS:

Open Competitive Examinations: (a) On the basis of open competitive examinations, the Personnel Director shall prepare a list of those eligible for appointment to the Service. Names shall be placed upon such list in order of preference according to the final earned rating of each person successfully competing in the examination which final earned rating shall be determined by the earned ratings on all phases of the examination according to weights for each phase established and announced by the Personnel Director in advance of giving the tests. Whenever it becomes necessary to hold a subsequent examination to obtain additional eligibles from an Original Entrance List, the Personnel Director may combine existing lists with the new list for the same class by arranging the eligibles' names as provided above without regard to the time of the tests. Original Entrance Lists shall expire one (1) year after the posting of the results of original entrance tests, or where lists have been combined, one (1) year after the date of the combining of the new with the old lists. The eligibility lists for the following classifications shall be valid for a two (2) year period: (Amended 8/16/96)

Administrative Secretary Painter

Carpenter Parking Enforcement Specialist I

Central Services Technician Parking Events Attendant

Clerk Property & Evidence Technician I

Clerk Typist Police Officer Trainee
Code Compliance Officer 1 Public Safety Specialist II

Concession Attendant Recreation Leader I

Communications Operator
Complaint Operator II

Data Entry Clerk

Dispostsher Trainee

Recreation Leader II

Recreation Supervisor I

School Guard

Stores Clerk

Dispatcher Trainee Stores Clerk Fleet Service Writer Tree Trimmer

Municipal Service Worker I Warehouse Supervisor

Museum Guard Waste Collector

Water Meter Technician I

(b) Non-Competitive Examinations: The Personnel Director shall prepare an eligible list of all applicants meeting the announced minimum qualifications for a class of positions. (Amended 2/15/91)

(c) Open Continuous Examinations:

- 1. In those classifications for which continuous examinations are provided, the eligible list shall be prepared by the Personnel Director by placing names on such list in order of preference according to the final earned ratings of each person successfully participating in the examinations, without regard to the time of the taking of the examinations. (Amended 2/15/91)
- 2. Individual names on such continuous examination lists shall expire one (1) year after having been placed thereon.
- (d) If in order for the City to receive the benefits of the United States Emergency Employment Act of 1971 (Public Law 92-54), the Comprehensive Employment and Training Act of 1973 (Public Law 92-54), and if the Personnel Director be authorized to conduct open competitive examinations for transitional classifications. Names shall be placed upon such lists, as established in accordance with the job classification of the positions to be filled, with the added title to such job classifications as "transitional" and which lists shall be maintained separate and apart from lists for the same positions which are not transitional nature. The qualifications for transitional classifications shall include the requirements as set forth in the United States Emergency Employment Act of 1971 and the Comprehensive Employment and Training Act of 1973.

SECTION 5: CERTIFICATION OF ELIGIBLE LISTS

- (a) Eligible lists shall become effective when the Personnel Director certifies that the list was legally prepared and representative of the relative ratings of the persons whose names appear thereon.
- (b) Applicants qualifying on certain examinations may be certified to more than one (1) eligible list providing that the Personnel Director has determined that the appropriate test forms for the classifications involved are of sufficient similarity and providing that the applicant has agreed to such certification. (Amended 7/17/86)

SECTION 6: RESTORATION TO LIST

- (a) The name of a promotional Probationary employee who has been laid off during his/her probationary period and who is not removed, suspended, or rejected, shall be restored to his/her original position on the Promotional List from which he/she was certified for the remainder of the one (1) year period after the posting of the results of the promotional test, upon his/her reverting to his/her Regular classification.
- (b) The name of a Probationary employee who has been laid off after being employed in a position in which the work was of a seasonal, fluctuating or temporary nature, (a temporary position being deemed to be one for which the employee, at the time of his/her employment, is informed in writing by the Personnel Director that such employment will be for a period of less than nine (9) months) shall be restored to his/her original position on the list from which he/she was certified for the remainder of the one(1) year period after the posting of the results of the examination, unless the appointing authority, at the time of such lay-off, certifies to the Personnel Director that such employee has been removed, suspended, or rejected.

RULE VII. METHODS OF FILLING VACANCIES

- **SECTION 1: TYPES OF APPOINTMENTS**: All vacancies in the Classified Service shall be filled by appointment from eligible lists established by the Personnel Director, which list shall include Re-Employment Lists, Promotional Lists, and Original Entrance Lists. In the absence of an appropriate list, Provisional appointments may be permitted in accordance with the Civil Service Act and these Rules.
- **SECTION 2: NOTICE TO PERSONNEL DIRECTOR**: Whenever vacancies in the Classified Service are to be filled, the Appointing Officer concerned shall notify the Personnel Director stating the title and duties, the number of vacancies to be filled, the necessary and desirable qualifications, and other pertinent information relating to the positions to which appointments are to be made.

SECTION 3: CERTIFICATION OF ELIGIBLES:

- (a) Upon receipt of a request for certification of eligibles, the Personnel Director shall investigate the availability of employees for transfer and the desirability of making such transfers. If it shall be found to be undesirable or impracticable to make transfers of present employees to fill such vacancies, then the Personnel Director shall make certification from eligible lists as follows:
 - 1. Whenever a Re-Employment List exists, the Personnel Director shall certify to the Appointing Officer names from such Re-Employment List before any certification may be made from other lists of eligibles.
 - 2. If there shall be no Re-Employment List and a Promotional List exists, the Director shall certify to the Appointing Officer from such Promotional List before any certification may be made from an Original Entrance List.
 - (a) Whenever a certification is made from a Promotional List, any employee who has received a passing grade on the promotional examination from which such promotional list is compiled, and who is and has been employed as a Regular employee in the Department of the City in which the vacancy to be filled exists, such employment is such Department as a Regular employee having been continuous for a period of at least one (1) year immediately prior and preceding the date such certification is made, shall be given a credit of one-half (1/2) point for each full year of Regular employment with

such Department of the City, but not to exceed a total of three and one-half (3-1/2) points; provided, however, when applicants for the promotional examination from which such promotional list is compiled is limited to only members of the Department in which the vacancy exists, the provisions of this paragraph as to the granting of extra points shall not apply.

- 3. If there shall be no Re-Employment List or Promotional List, then the Personnel Director shall make certification from an Original Entrance List.
- (b) Such certification by the Personnel Director shall be in writing and shall be effective for a period of twenty-one (21) calendar days after the date thereof.
- (c) With the approval of the Personnel Director, only where there is a bona fide occupational requirement the Appointing Officer may specify the sex of the persons to be certified, in which event the Personnel Director shall certify only the persons of such sex standing highest on the list in the same number as provided in Sub-Section (d) of this Section.
- (d) When there are vacancies to be filled, the Personnel Director shall certify the names of the persons standing highest on the list to be used. At least two (2) more names shall be certified than the number of vacancies to be filled. (Amended 2/15/91)
- (e) If the eligible list from which certification should first be made contains an insufficient number of names to comply with the certification process, the Appointing Officer may fill such of the vacancies as possible from such list and the balance of the vacancies from the next list to be considered, or may demand that all vacancies be filled from a list with sufficient names to comply with the certification process. If no list shall contain sufficient names, he/she may demand that an examination be conducted to secure the required number and Provisional appointments may be made pending the establishment of such adequate list.

SECTION 4: APPOINTMENTS: The Appointing Officer, after such interviews and investigations as he/she deems desirable, shall appoint one or more of the persons certified, in number equal to the number requisitioned, and shall immediately notify the Personnel Director of the person or persons appointed. If a candidate accepts an appointment and fails to present himself/herself for duty within five (5) days after instructed to do so, he/she shall be deemed to have declined the appointment.

SECTION 5: PROVISIONAL APPOINTMENTS

- (a) Those original appointments to positions in the service of the City, made without competition, after the effective date of the Civil Service Act and before adoption of these Rules, shall be considered as Provisional appointments. After the adoption of these Rules, the persons occupying these positions shall be required to establish their eligibility either by individual qualifying examinations or by competitive in open assembled tests, as may be determined by the Personnel Director; provided that in all cases such persons must meet the minimum requirements of the class to which their position belongs.
- (b) After the adoption of these Rules, in the absence of eligibles from which appointments or transfers may be made, persons meeting as nearly as practicable the minimum qualifications for vacant positions may be Provisionally appointed after such investigation and tests as the Personnel Director shall decide. Such appointments shall continue only until such time as appropriate eligible lists are established or qualified persons in the service become available for transfer, but in no case longer than thirty (30) days without the approval of the Personnel Board. Time spent under Provisional appointment shall not be credited to the Probationary period.
- **SECTION 6: EMERGENCY APPOINTMENTS**: In the event of an emergency so drastic that it renders unwise the delay necessary to have Provisional appointments approved by the Personnel Director, the Appointing Officer may select and appoint persons without regard to the rules governing appointments, but in no case shall such emergency appointments continue longer than thirty (30) days. Successive emergency appointments of the same person shall not be made, and no person shall serve under emergency appointment longer than thirty (30) days in any twelve (12) month period. Notice of emergency appointments shall be given immediately to the Personnel Director.

SECTION 7: RE-APPOINTMENTS AFTER DISABILITY RETIREMENT

- (a) Regular employees who have been retired for disability on monthly increments of allowance under the provisions of the Employees' Retirement System and who have become able to return to work prior to reaching their minimum retirement age as determined by the Board of Trustees of the Employees' Retirement System shall be re-appointed to vacancies in the same classification from which they were retired or any lower classifications for which they are qualified and which involve duties of a similar nature and the application of a pay scale which is not less than seventy percent (70%) of that for the classification from which they were retired. Such appointments shall take precedence over any eligible lists, but the classifications to which such re-appointments shall be made shall be subject to the approval of the Personnel Director.
- (b) Regular employees who have claimed and received full payment of all benefits under the disability provisions of the Employees' Retirement System shall be considered as completely separated from service and shall be eligible for re-employment only through original entrance procedures.

SECTION 8: SUBSTITUTE APPOINTMENTS: Whenever it becomes necessary to fill the position of a Classified employee who is absent from his/her regular duties on leave of absence, and the duration of the leave and/or conditions of work are such that in the opinion of the Personnel Director it is impracticable to use assignment or Provisional appointments, he/she may approve an appointment on a substitute basis to fill the vacancy during the entire period of the leave. If an eligible list exists for the classification to which the vacant position belongs, selection shall be made from this eligible list in the same manner as provided for Probationary appointments; if no such eligible list exists, the Personnel Director shall decide whether qualifying or competitive tests shall be conducted. Any person so appointed shall be compensated within the pay range provided for the classification to which the vacant position belongs, but no other rights shall accrue to such person in such classification.

SECTION 9: APPOINTMENT TO UNCLASSIFIED SERVICE

- (a) When any Regular employee in the Classified Service shall be appointed to an office or position in the Unclassified Service, his/her position in the Classified Service shall be considered vacated and shall be filled by the regular procedures which apply to filling such positions on a permanent basis. The Regular employee so appointed to the Unclassified office or position shall retain his/her Classified Service title and status. (Amended 2/15/91)
- (b) If such employee is separated from his/her Unclassified office or position, he/she shall be returned to the position and classification in the Classified Service which he/she held immediately prior to becoming an Unclassified employee with compensation within the salary range then prevailing for such classification.
- (c) In the event the Classified Service classification of such employee has been abolished or otherwise discontinued, such employee shall be placed in a Classified position at the same level as his/her Classified Service classification for which, in the opinion of the Personnel Director, as approved by the Personnel Board, he/she possess at least minimum qualifications. If there is no classification at such level, he/she shall be placed in a Classified position at the next lower level for which, in the opinion of the Personnel Director, as approved by the Personnel Board, he/she possesses at least minimum qualifications. In either of such events said employee shall be placed in such Classified position with compensation within the salary range then prevailing for such classification but not lower than the salary range held by such employee when appointed to the Unclassified office.

RULE VIII. PROBATIONARY PERIOD

SECTION 1: OBJECT OF PROBATIONARY PERIOD: The Probationary period shall be regarded as an intrinsic part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee for his/her position, and for eliminating any Probationary employee whose performance does not meet the required standards.

SECTION 2: DISCIPLINARY ACTION AND REMOVAL DURING PROBATIONARY PERIOD: During the Probationary period an employee may be suspended, reduced in pay or class, or removed for reasonable cause at any time during the Probationary period by the Appointing Officer. Notice of the suspension, reduction in pay or class, or removal shall be given both the employee and the Personnel Director together with a statement of the reasons therefore. No Probationary employee has the right to appeal any disciplinary action or removal by his/her Appointing Officer for any cause whatsoever to the Personnel Board. The Personnel Board has no jurisdiction over Probationary employees. In the case of a removal, the Personnel Director may determine whether or not the name of the removed Probationary employee should be restored to an eligible list; provided that the name of a person who has been removed a second time during the Probationary period shall not be restored to a list of eligibles.

SECTION 3: REPORTS DURING THE PROBATIONARY PERIOD: The Personnel Director may, if he/she deems it desirable, require that Appointing Officers file with him/her at a designated time a performance evaluation of each Probationary employee on such form as he/she may prescribe.

SECTION 4: REGULAR APPOINTMENT AFTER PROBATIONARY PERIOD

(a) All original appointments and probationary promotional appointments and re-employment of Probationary employees shall be made for a period of six (6) months, except as hereinafter provided. All probationary promotional appointments, made as of January 19, 1973 and thereafter, made within the same department in which the employee has been employed for a minimum of six (6) months shall be for a period of three (3) months, except as hereinafter provided; provided, however, that any and all absences totalling in excess of three (3) days with pay during such three (3) month period shall be added thereto so as to extend such period by the number of days of such absences. No probationary period is to be required for re-employment in the same, equivalent, or lower classification of an employee with Regular status. (Amended 8/18/89)

If an employee requests a change in departments during the probationary period, a new probationary period will begin from the date of transfer. If the employee returns to the original department, the first probationary period will commence from the date it ended prior to the transfer. (Amended 8/18/89)

After the expiration of the required probationary period from the date of the original appointment or the re-employment of a Probationary employee, or from the date of a promotional appointment, no salary or other compensation payment shall be made unless the Appointing Officer has first filed with the Personnel Director a statement in writing that the services of the employee during the probationary period were satisfactory and that it is desired that he/she be continued in the service. Such statement shall contain an appraisal of the value of the services of the employee and if the Personnel Director so determines, may include a performance evaluation upon forms prescribed by him/her. (Amended 8/18/89)

(b) The probationary period for the classifications of Firefighter I, Communications Supervisor, Dispatcher, Dispatcher Trainee, and Code Compliance Officer I shall be for twelve (12) months. (Amended 4/19/91, 12/18/92)

The probationary period for the classifications of Police Officer and Police Officer Trainee shall be for eighteen (18) months. (Amended 4/20/90)

(c) 1(a) The original entrance or promotional probationary period for the following classifications shall be for nine (9) months: (Amended 4/17/92)

Sergeant of Police
Lieutenant of Police
Captain of Police
Communications Operator
Communications Technician I
Identification Technician I
Identification Officer
Firefighter II
Fire Lieutenant
Fire Captain
Deputy Chief

(b) The original entrance or promotional probationary period for the following classification shall be for six (6) months:

Complaint Operator II

(d) A probationary employee whose employment has been terminated for other than disciplinary reasons after he/she has served four (4) or more months of his/her probationary period and who is rehired by the City in the same classification within one (1) year from the date of such termination shall be given full credit for such prior probationary time towards completion of his/her probationary period. In no event, however, is the probationary period to be served after such rehiring to be for less than one (1) calendar month.

SECTION 5: PROBATIONARY PERIOD AFTER HAVING ATTAINED REGULAR STATUS

- (a) Any employee removed during the Probationary period following a promotional appointment because of failure to meet the required work standards of an Appointing Officer, or who is removed at the conclusion of the Probationary period following a promotional appointment by reason of failure of an Appointing Officer to file a statement that his/her services were satisfactory, shall be reinstated in the position from which he/she was promoted, even though the lay-off of the employee occupying his/her former position is necessary.
- (b) Any employee removed during the Probationary period following a promotional appointment for reasons which, in the opinion of the Personnel Director, constitute grounds for removal, as provided in Section 2 of Rule X, shall be considered as removed and shall have the right to appeal to the Personnel Board as provided therein.
- (c) Whenever any Regular employee receives a Probationary appointment because of certification from an eligible list and is not appointed to Regular status in the classification for which he/she was serving a Probationary period, he/she shall be reinstated in the position from which he/she held Regular status immediately preceding the commencement of the Probationary period, even thought it is necessary to lay-off the employee occupying his/her former position.

SECTION 6: ABSENCES DURING PROBATIONARY PERIOD

- (a) All absences during a probationary period shall extend the date of completion of the probationary period in time equal to the amount of time absent, except that the first thirty (30) days of an absence for non-service connected injury or illness or the first sixty (60) days of an absence for a service connected injury, shall not extend the date of completion of the probationary period if the employee furnishes to the Personnel Director proper medical evidence as to the nature and extent of the illness or injury within two (2) weeks after the injury or illness commences.
- (b) During an original entrance probationary period, any consecutive absence in excess of three (3) weeks, except for approved absence in connection with an illness or injury as provided in sub-paragraph (a) above, shall automatically cancel the probationary appointment, except that upon written request of the Appointing Officer, such appointee may be retained, and his/her probationary period shall continue from the date of his/her return to duty. In the event such consecutive absence, except for an approved absence or injury as provided in sub-paragraph (a) above, exceeds ninety (90) days, the probationary period shall be automatically terminated.
- (c) During a promotional probationary period any consecutive absence in excess of six (6) weeks, except for approved absence in connection with an illness or injury as provided in sub-paragraph (a) above, shall automatically cancel the probationary appointment, except that upon written request of the Appointing Officer, such appointee may be retained, and his/her probationary period shall continue from the date of his/her return to duty. In the event such consecutive absence exceeds six (6) months, except for an approved absence or injury as provided in sub-paragraph (a) above, the probationary period shall be automatically terminated.

RULE IX. TRANSFERS, ASSIGNMENTS, PROMOTIONS, DEMOTIONS

SECTION 1: TRANSFERS

(a) ORGANIZATIONAL TRANSFERS

The transfer of an employee from a position in one class to another position in the same class under another Appointing Officer shall be called an organizational transfer, and may be made with the consent of the Appointing Officers involved and the Personnel Director provided, however, that such transfer shall not become effective until it has been approved by the Personnel Board at a regular meeting after written notice to the effected employee by the Personnel Director at least seven (7) days prior to such approval, or, in any event, where the City Manager deems such action to be for the good of the service.

(b) CLASS TRANSFERS

The transfer of an employee from a position in one class to a position in another class for which he/she is qualified and for which the same maximum rate of pay has been established, under the same Appointing Officer, is called a class transfer and may be made by the Appointing Officers involved and the Personnel Director, or in any event where the City Manager deems such action to be for the good of the service. No class transfer shall be made without the written consent of the employee concerned which requires an employee to transfer from his/her existing regular pension system or relief and pension fund to any other, or which renders such employee ineligible to remain in or participate in benefits of his/her existing regular pension system or relief and pension fund. (Amended 5/20/88)

1. However, an employee so transferred under this Section shall be considered eligible for a period of one year from the date of such transfer to participate in such examinations as are promotional from the classification from which he/she was transferred. In like manner, an employee so transferred shall be considered ineligible for a period of one year from the date of such transfer to participate in such examinations as are promotional from the classification to which he/she has been transferred.

SECTION 2: ASSIGNMENTS

Pursuant to applicable provisions of negotiated agreements between the respective certified bargaining agents and the City of Miami Beach, the transfer of an employee for a temporary period from a position in one class to a position in another class having a higher maximum rate of compensation, or with the consent of the affected employee to another class having a lower maximum rate of compensation under the same Appointing Officer, is an assignment and may be made in order to bring about a better distribution of persons in the service to effect economies or to provide training.

- (a) Request for the assignment of an employee shall be made in writing to the Personnel Director stating reasons and approximate length of time for which assignment is to be made by the Appointing Officer or Officers affected. No employee shall be assigned when an eligible list exists for the classification in which an assignment is to be made until the persons on the eligible list have refused to accept the appointment. Except that any employee may be temporarily assigned out of class for a specific shift where an eligible list exists for the classification in which the assignment is to be made irrespective of the eligibility list existing (1) where no person on the eligible list is on duty for that specific shift, or (2) where the eligible employee has refused to accept the appointment. This out of class assignment shall be limited to that specific shift. That specific appointment shall be made solely within the discretion of the Appointing Officer. No appointment shall be made without the approval of the Personnel Director, and no employee shall be assigned to a position involving duties for which he/she is not qualified as indicated by his/her experience, training and record of service.
- (b) Assignments to a higher class or higher compensation may be limited to a maximum of three (3) months in any twelve (12) month period. In those instances where such assignments are deemed necessary to provide for the health, safety, and welfare of citizens and/or employees, an Appointing Officer may request, with sufficient justification, a three (3) month extension of an assignment and, if warranted, may be approved by the Personnel Director. The time an employee spends under such assignments shall not be used for computing any rights in the higher classification to which he/she may be so assigned. (Amended 1/20/89)
- (c) Vacant positions cannot be filled with assigned employees for a period of time exceeding eighteen (18) months. (Amended 1/20/89)

SECTION 3: PROMOTIONS: A transfer in the Classified Service from a position in a lower class to a position in a higher class shall be deemed a promotion. No promotion shall be made except as a result of examination as provided in these Rules; provided, however, that the Personnel Director, upon recommendation by the Personnel Board, may eliminate competitive tests in specific categories as set forth in Section 81G of Article XIV of the related laws of the City of Miami Beach. Under such latter circumstances, the noncompetitive test shall be based upon the skill, ability, and qualifications of the employee and his/her length of service, as such term is defined in Rule X, Section 4(a).

Transitional employees having the qualifications, as announced, for promotional examinations for positions in the regular work force of the City shall be eligible to take such promotional examinations. Upon appointment thereto and successful completion of the required probationary period, such transitional employee shall become a part of the regular work force of the City and shall no longer carry the classification designation of "transitional".

SECTION 4: DEMOTIONS: A transfer in the Classified Service from a position in a higher class to a position in a lower class shall be deemed a demotion.

- (a) Subject to the provisions of Section 9 of the Civil Service Act and Rule XI of these Rules, an Appointing Officer may demote an employee whose ability to perform his/her duties falls below standard or for disciplinary purposes. All demotions shall be reported to the Personnel Director in sufficient time before the date it is intended that they become effective so that the Director may make such investigations of the circumstances as he/she may consider necessary. Where such action would in his/her opinion be in the best interests of service, the Personnel Director shall attempt to arrange the transfer of the affected employee to a position under the jurisdiction of another Appointing Officer. A transfer under such circumstances shall be approved by the Director and the Appointing Officer having jurisdiction over the position to which the employee is to be transferred, but not necessarily by the Appointing Officer intending to effect the demotion.
 - 1. The Personnel Director may demote an employee, at the request of such employee, after the Director has made such investigation of the circumstances of the request as he/she may consider necessary, provided, however, that such employee possesses the minimum qualifications for appointment to the position to which he/she is to be demoted, and provided further, that the Appointing Officer in whose jurisdiction such employee is employed approves such demotion.

- 2. In the event of a request for demotion by an employee and when such action would, in his/her opinion be in the best interest of the service, the Personnel Director may arrange the transfer of the affected employee to a position under the jurisdiction of another Appointing Officer. No such transfer, however, shall be made unless approved by both the Personnel Director and the Appointing Officer having jurisdiction over the position to which the demoted employee is to be transferred. It shall not be necessary to obtain the approval of the Appointing Officer from whose jurisdiction such employee has been transferred, but notice of such proposed demotion and transfer shall be given to such Appointing Officer by the Personnel Director at least ten (10) days before the same shall become effective, unless said notice is waived in writing by such Appointing Officer.
- (b) At his/her discretion and with the consent of the prospective Appointing Officer, the Personnel Director may permit the demotion to a vacant position as a substitute for a lay-off, or the City Manager may require that such action be taken where he/she deems it to be in the best interest of the service. Any employee so demoted shall have his/her name placed on the Re-Employment List for the Classification from which he/she was demoted as provided in cases of lay-off. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications.
- (c) In case of appeals from demotions made for disciplinary purposes, the procedure established by Section 9 of the Civil Service Act and by Rule XI, APPEALS FROM DISCIPLINARY ACTION, shall apply.

SECTION 5: REDUCTION IN SALARY

- (a) The Appointing Officer, with the approval of the City Manager, may reduce the salary of an employee under his/her jurisdiction within the salary range for the classification for a disciplinary purpose or when the quality of work of an employee is of low service value and does not conform with the required standards. Appeals from such action may be taken by the employee under the procedure provided by Rule XI of these Rules.
- (b) In the event an employee's salary is reduced for a disciplinary purpose, such reduction in salary shall not exceed five percent (5%) of the salary of such employee, nor continue for a period of more than ninety (90) days from the effective date of such reduction, and such reduction or any portion thereof may be lifted by the Appointing Authority, with the approval of the City Manager, at any time during such period of reduction.

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RULE X. SEPARATIONS

SECTION 1: SUSPENSIONS

- (a) An Appointing Officer may suspend an employee in the Classified Service at any time for the good of the service, for a disciplinary purpose, or for other just cause.
 - 1. If the suspension is for a period of 3 days or less the Appointing Officer is excused from the process on Rule XI, Section 1(a), (b), (c), and (d).
 - 2. If the suspension is for a period of more than 3 days, the Appointing Officer must follow the procedures as set forth in Rule XI, Section 1(a), (b), (c), and (d).
- **(b)** Any employee in the Classified Service who has been indicted, or informed against in any Federal Court, or in a court of any state of the United States, may be forthwith suspended by his/her Appointing Officer. suspensions may continue until the acquittal or conviction of such employee. The maximum limitations for the duration of suspensions, as hereinbefore set forth, shall not apply to suspensions based upon information or indictments. If the indictment or information against such employee is quashed, and the charges dropped by the prosecuting authority, such action shall be deemed an acquittal hereunder. If a finding of guilty is entered against such employee and adjudication is withheld under the provisions of Chapter 948, Florida Statutes, such finding shall be deemed a conviction hereunder. Acquittal shall entitle such employee to reinstatement and recovery of all wages and emoluments lost by reason of such suspension, but conviction of such employee shall be grounds for removal in accordance with the provisions of Section 2 (b) 1 of this Rule.

In the event that the employee requests a continuance based upon such indictment or information and that the continuance is granted, said employee shall waive all rights to wages and emoluments lost by reason of such continuance from the date of said continuance until the date of hearing before the Personnel Board.

- (c) Any employee who engages in a physical altercation outside the lawful exercise of his/her duties with either other City employees or the general public, regardless of provocation, shall be suspended for a period of not less than three working days.
- (d) Suspensions shall be immediately reported to the Personnel Director who may investigate the circumstances surrounding the suspensions.
- (e) Any Regular employee in the Classified Service may appeal a suspension according to the procedures established by Section 9 of the Civil Service Act and by Rule XI, APPEALS FROM DISCIPLINARY ACTION.

SECTION 2: REMOVALS:

- (a) Any Appointing Officer may remove a subordinate employee under his/her jurisdiction in the Classified Service at any time for any cause which will promote the efficiency of the service. Before the effective date of any such removal, the Appointing Officer shall give the affected employee and the Personnel Director a written statement of the reasons for such removal. The Personnel Director may thereupon investigate such removal in order to be apprised of the factors causing such removal and to aid in the elimination of such factors.
- **(b)** The following acts of employees shall be deemed sufficient cause for removal:
 - 1. Has been convicted of a criminal offense or misdemeanor involving turpitude; or has been guilty of an immoral or criminal act.
 - 2. Has willfully violated any of the provisions of the Civil Service Act or of these Rules or Work Rules, or has attempted to or does, commit any act or acts intended to nullify or mitigate any of the provisions thereof.
 - 3. Has been guilty of conduct unbecoming an employee of the City.
 - 4. Has violated any lawful and reasonable regulation or order, or failed to obey any lawful or reasonable direction made and given by a superior where such violations or failure to obey has or might result in loss or injury to the City, the public, or to persons or property in the custody of the City.

- **5.** (a) Has been intoxicated or under the influence of intoxicants or narcotics while on duty or while wearing a Cityfurnished uniform, whether on or off duty.
 - (b) If an employee sworn in as a Police Officer, an employee of the Fire Division detailed to fire fighting apparatus, or an employee responsible for the operation of an automobile, truck, tractor, bulldozer, roadgrader, roadroller, crane, or other such power equipment, has imbibed any amount of any intoxicant, or used narcotics, during duty hours.
 - (c) If an employee has in his/her possession, and/or is using, dispensing, or selling any illegal drug or controlled substance not prescribed by a licensed physician, whether on or off duty. (Adopted 9/18/92)
 - (d) Has used and/or possesses alcohol during duty hours. (Adopted 9/18/92)
- **6.** Has contracted some mental or physical ailment or defect which incapacitates him/her for usefulness in the City service.
- 7. Has been guilty of acts which amount to insubordination.
- 8. Has been wantonly offensive in his/her conduct or language toward the public, toward City officers, or toward other employees.
- 9. Has been incompetent, negligent or inefficient to such an extent that he/she has received two consecutive overall performance evaluations of Improvement Needed, Unsatisfactory, or a combination thereof.
- 10. Is careless or negligent of the property of the City; or, steals, misplaces, or misuses equipment, materials, property or any other thing of value belonging to the City.
- 11. Has used or threatened to use, or attempted to use political influence in securing promotion, leave of absence, transfer or change of class, pay or character of work.

- **12.** Has violated the provisions of the Conflict of Interest Ordinance of the City of Miami Beach.
- 13. Intentional falsification of time record or failure to report absences from duty to his/her superior in accordance with prescribed procedures.
- 14. Has been absent from duty without leave of absence from his/her Appointing Officer, or contrary to prescribed procedures, or has failed to report after a leave of absence has expired, or within a reasonable time after such leave of absence shall have been revoked or cancelled.
- **15.** Has been excessively absent or habitually tardy.
- 16. Has engaged in any activities prohibited under the provisions of Rule I, Section 3, of these Rules.
- 17. That he/she is antagonistic in his/her attitude toward his/her superiors or fellow employees, criticizing orders or rules issued and policies adopted by his/her superiors, or so conducts him/herself as to interfere with the proper coordination of the employees of the City to the detriment of efficient public service.
- **18.** Has been guilty of actions which amount to disgraceful conduct while on or off duty.
- 19. Has willfully refused or failed to appear before any grand jury, court, or judge, or officer, board or body authorized by law or the City Commission to conduct any hearing or inquiry relative to the official duties of such employee, or has refused and continues to refuse to answer any related questions concerning his/her official duties which have been asked him/her as part of an official hearing or inquiry by the head of his/her department, the City Manager or by any other person authorized by the City Commission or the City Manager to conduct such hearing or inquiry.
- **20.** Has been guilty of violating the provisions of Rule I, Section 3(d)2.
- 21. Has been guilty of gross negligence or gross inefficiency in the performance or his/her duties, where such negligence or inefficiency has or might result in loss or injury to the City, the public, or to persons or property affected thereby.

(c) Any Regular employee in the Classified Service may appeal a removal according to the procedure established by Section 9 of the Civil Service Act and by Rule XI, APPEALS FROM DISCIPLINARY ACTIONS.

SECTION 3: RESIGNATIONS:

- (a) Any person who has satisfactorily served as a Regular employee in the Classified Service and who voluntarily withdraws from service after a written resignation and compliance with all attendant requirements of the Appointing Officer and the Personnel Director shall have his/her name placed on the Reemployment List and his/her service shall not be considered as discontinued unless he/she shall request, in writing, that his/her name be removed from such Re-employment List or unless such Re-employment List shall expire by limitation, in which case he/she shall forfeit all his/her Civil Service rights and shall be eligible for future employment only through original entrance procedures.
- (b) Any person who voluntarily withdraws as a Regular employee in the Classified Service, whose service has not been satisfactory or who fails to submit a written resignation or to comply with the attendant requirements of the Appointing Officer and the Personnel Director shall forfeit all his/her Civil Service rights and shall be eligible for future employment only through original entrance procedures.

SECTION 4: LAY-OFFS:

Pursuant to applicable provisions of negotiated agreements between the respective certified bargaining agents and the City of Miami Beach, any Appointing Officer may reduce the number of employees in any class or classes whenever he/she deems it necessary because of material changes in duties or organization, or because of shortage of work funds. After a study by the Personnel Director the City Manager shall decide whether only the employees of the Appointing Officer concerned shall be considered in making such lay-off or whether the City service as a whole shall be considered. In conformance with the decision of the City Manager, the Personnel Director shall inform the Appointing Officer or Officers as to the order in which the employees in such class or classes shall be laid off. Effect should be given in making this determination to the length of service of the employees and the value of such service. For the purpose of this Section, "length of service" shall be defined as an employee's length of continuous paid time dating from his/her last date of hire. A written notice of lay-off containing the reasons therefor shall be handed to each such employee or mailed to his/her last known place of residence.

In determining the order of lay-off in each class or classes, transitional employees shall be considered as a separate entity and the length and relative value of service of the employees in such transitional class or classes shall be comparable only among such transitional employees of such class or classes.

- (b) No Regular or Probationary employee in a class shall be laid off so long as any emergency or Provisional employee is employed in the same class, in the same organizational unit or any other organizational unit to which transfers can, in the opinion of the City Manager, readily be made. Furthermore, all employees in a class who have not served an original Probationary period shall be laid off before any Regular employees in the same class. In the event of further reductions in force, employees will be laid off or reduced in classification in accordance with their length of service and their ability to perform the work available. When two or more employees have equal skill, ability and qualification, the employee(s) with the least length of service will be the first laid off or reduced in classification. No employee shall be laid off without receiving one week's notice prior to the effective date of layoff.
- (c) The Personnel Director may, when he/she deems it to be in the best interest of the service, require that employees in a lower class be laid off when employees in a higher class who are willing and qualified for the work of the lower class would otherwise have to be separated from the service.

(d) Length of service in the employment relationship shall be terminated when a Regular employee:

i quits voluntarily;

ii is laid off for more than one year;

iii is terminated for cause;

iv retires or is retired;

v fails to return to work at the expiration of any approved leave of

absence;

vi fails to report to work within five (5) work days after the date of written notice of recall to work after a lay-off given by the City by certified or registered mail and addressed to the employee at his/her last address appearing on the records of the City. It shall be the employee's responsibility to provide the City with his/her current address.

(e) Any person who has served satisfactorily as a Regular employee in the Classified Service or as a Probationary employee and who is laid off as provided in this Section shall have his/her name placed on the Reemployment List and his/her service shall not be considered as discontinued unless he/she shall request, in writing, that his/her name be removed from such Re-employment List or unless such Re-employment List shall expire by limitation, in which case he/she shall forfeit all his/her Civil Service rights and shall be eligible for future employment only through original entrance procedures. When there is a recall from the Re-employment List, employees laid-off with seniority in length of service will be recalled in inverse order to their lay-off, provided they are, at the time of recall, qualified to perform the work in the classification to which they are recalled.

RULE XI. APPEALS FROM DISCIPLINARY ACTION

SECTION 1: RIGHTS OF REGULAR EMPLOYEES

- (a) Whenever the Appointing Officer of any Regular employee or officer in the Classified Service determines that there are reasons for removal, suspension, or reduction in pay or class of such employee or officer, such Appointing Officer shall notify the City Manager, the City Attorney, and the Personnel Director in writing thereof as quickly as is practicable.
- (b) In the event such employee or officer is relieved from his/her duties by his/her Appointing Officer pending suspension, reduction, or removal, the notification to the City Manager, City Attorney, and Personnel Director, as required by paragraph (a) above, shall be given within not more than 24 hours after such relief from duty.
- (c) Within not more than 30 days after the giving of the notification required by paragraph (a) above, written notice of suspension, reduction or removal, as the case may be, stating the reasons therefore, and the date from which such action is effective, shall be given to such employee or officer or mailed to his/her usual place of residence. A copy of such notice shall be submitted to the Personnel Director.
- (d) In the event that good and sufficient reasons exist making it impractical or impossible to give or mail such written notice to said employee within said period of 30 days, as required by paragraph (c) above, the Personnel Board, in its discretion, upon application and upon good cause being shown, may extend the period for the giving or mailing of such notice for an additional period not to exceed 30 days.

SECTION 2: REQUEST FOR HEARING: Any officer or employee may appeal from such disciplinary action within ten (10) days after the delivery or mailing to him/her of such written notice, by filing a written request for a hearing to the Personnel Board in the Office of the Personnel Director. If the tenth day falls on a Saturday or Sunday, he/she will have the ability to file for an appeal on the following Monday. (Amended 8/21/86)

SECTION 3: DISCIPLINARY HEARINGS

(a) The Personnel Board, not later than ten (10) days after receipt of such appeal, shall fix a place and time for holding a public hearing within a reasonable time thereafter. Written notice of such time and place shall be delivered or mailed promptly to both the Appellant and the Appointing Officer.

To legally constitute a hearing of appeal, there must be a quorum present; which quorum shall consist of three (3) Associate Members and one (1) Employee Member. Only the Chairman of the Personnel Board may grant a continuance to either party for good and sufficient cause. No continuance shall be granted to either party unless such request for continuance is received in writing by the Personnel Director at least ten (10) days prior to the date of said scheduled hearing of appeal.

- **(b)** The Personnel Board may, at the request of the Appointing Officer or the Appellant, call or request any person or records for the purpose of ascertaining the facts.
- (c) The Appointing Officer or a representative designated by him/her, shall have the right to be present at such hearing and to be represented by the City Attorney.
- (d) The Appellant shall have the right to be present at such hearing and to be represented by an attorney of his/her choice.

Said attorney shall be an attorney duly admitted and licensed to practice in the State of Florida. In the event that the Appellant does not retain an attorney, said Appellant may have an advisor of his/her choice present. Such advisor shall not have the right to interrogate any witnesses or to enter objections to any testimony or evidence presented to the Board, nor may such advisor speak in the Appellant's behalf.

- (e) Hearings before the Personnel Board shall be informal and shall not be bound by formal rules of evidence. The findings of the Board, however, shall be based upon competent substantial evidence of record.
- (f) The Appointing Officer shall have the burden of presenting evidence to support the truth of the charges as contained in the written notice.
- (g) The Appellant shall have the right to present evidence to refute the charges brought against him/her.
- (h) The Appellant shall have the right to be confronted by his/her accuser, and the Appellant and the Appointing Officer shall each have the right to

cross-examine the witnesses of the other.

- (i) Rulings on objections and other questions of the law shall be made by the Chairman, but such rulings may be overruled by a majority vote of the Board. Before making any ruling, the Chairman or any member of the Board may request the opinion of the Attorney for the Board, if he/she is present.
- (j) After both the Appointing Officer and the Appellant shall have presented their testimony and evidence, the Board shall receive argument in summation. The Appointing Officer shall have both the opening and closing argument.
- (k) After the completion of closing argument, the Board shall hold an open executive session to consider the testimony and evidence presented before the Board to determine the truth or untruth of the charges. At such open executive session only the members of the Board and the Attorney for the Board, at the Board's request, shall be heard.
- (I) After the members of the Board have been charged by the Attorney for the Board, the Chairman shall entertain a motion, duly seconded. Each Associate Member shall be entitled to one vote; the three Employee Members shall be entitled to a total of one vote, voting as an employee member unit. The Secretary shall then call the role. A majority vote of those members present shall be required to deny an appeal. In the event of a tied vote, the appeal shall be upheld.
- (m) Within five (5) working days after the completion of the hearing, the Board shall report its findings in writing. The Personnel Director shall promptly deliver or mail a copy of such findings to the Appointing Officer and to the Appellant.
- (n) A copy of the written statement given the officer or employee, a coy of any reply thereto, and a copy of the findings of the Personnel Board shall be filed as a Public Record in the Office of the Personnel Department.

- **SECTION 4: FAILURE OF PARTIES TO APPEAR:** If the person appealing shall fail to appear, the Personnel Board shall hear the evidence and render a decision thereon. If the Appointing Officer shall fail to appear and if no evidence be offered in support of his/her charges, the Personnel Board shall render a decision by default.
- SECTION 5: RESIGNATION BEFORE HEARING: The acceptance by an Appointing Officer of the resignation of a person who appealed from a removal before the final action on the part of the Personnel Board shall act to nullify the hearing and the proceedings shall be dismissed without judgment. Any person resigning under such circumstances shall forfeit all their Civil Service rights.
- **SECTION 6: COMPENSATION WHEN APPEAL IS SUSTAINED:** When an appeal from disciplinary action results in the vacating of such disciplinary action by the Personnel Board, or by a court of competent jurisdiction, the employee shall be entitled to recover all wages and emoluments lost by reason of such disciplinary action. Under no circumstances shall the Appellant be entitled to attorney's fees in the prosecution of his/her appeal.
- SECTION 7: PARTICIPATION IN EXAMINATIONS WHEN APPEAL IS SUSTAINED: If an employee is unable to participate in any examination solely because he/she is the subject of disciplinary action at the time such examination is held, and if such disciplinary action is finally reversed or set aside by the Personnel Board or by a competent court while the eligible list resulting from such examination shall be in effect, such employee, upon demand, shall be given an individual test of the same degree of difficulty. If he/she shall successfully pass such examination, his/her name shall be fitted into the existing eligible list in order of score, and his/her eligibility shall continue for the life of the then existing list.

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RULE XII. ATTENDANCE, LEAVES, AND ABSENCES

SECTION 1: ATTENDANCE

- (a) **HOURS OF WORK:** Administrative regulations pertaining to hours of work shall be promulgated in order to establish, insofar as practicable, uniformity in hours of work for all employees.
- **(b) LEAVES WITH PAY:** All leaves with pay shall be in accordance with ordinances adopted by the City Commission.
- (c) ATTENDANCE RECORDS: All employees in the Classified Service shall be required to be in attendance at their work in accordance with the requirements of administrative regulations, annual leave ordinances, and these Rules. It is the duty of the Appointing Authority to arrange for the keeping of daily attendance records of Classified employees and to submit reports of attendance to the Personnel Division in the form and manner specified by the Personnel Director.

SECTION 2: REPORTS OF ABSENCE

- (a) All employees in the service of the City shall be required to report absences from duty, not previously arranged, to their Appointing Officer, or a designated superior in accordance with departmental rules approved by the Personnel Board, Personnel Director and the City Manager, but in no case later than one hour after the usual time of beginning work each day that such absence occurs, unless the cause of the absence is such that it may be expected to be of considerable duration, in which case, the absence shall be reported as specified the first day, together with a statement of the approximate length of time such absence is expected to continue.
- (b) Causes of absences for which compensation is claimed may be investigated by the Personnel Director and the report of a registered physician or registered nurse of his/her selection may be required, stating that the employee was unable during the entire absence to perform the duties of his/her position and that such absence was not due to excesses on the part of the employee concerned.

SECTION 3: MEDICAL EXAMINATION FOLLOWING ABSENCE: An examination by the City Physician or any other registered physician or medical specialist so designated by the City Physician, together with the physician's statement as to the physical condition of an employee, may be required by the Personnel Director or the Appointing Officer of an employee who returns or requests to return to work from any and all types of absences. In cases where an employee has been absent for ten or more work days because of illness or injury, the Appointing Officer shall require a physical examination by the City Physician or any other registered physician or medical specialist so designated by the City Physician, together with the physician's statement as to the physical condition of the employee before the employee is permitted to return to work. Where the physical condition is such that an employee cannot perform the duties of his/her classification, the provisions of Rule IX, Section 4 and Section 5 will apply.

SECTION 4: LEAVES WITHOUT COMPENSATION: An Appointing Officer may, in appropriate situations, grant leaves of absence without pay for periods not longer than a total of twelve (12) working days, consecutive or otherwise, to Regular employees within a six (6) month period. Leave of absence of long duration, but not to exceed six (6) months, unless specifically provided elsewhere in these Rules, may be granted to Regular employees upon recommendation of the Appointing Officer and the Personnel Director. Whenever granted, such leaves shall be in writing and signed by the Appointing Officer. Among the circumstances deemed proper for granting such leaves shall be military service, temporary physical or mental disability, study or training, or other reasons determined by the Personnel Director to be adequate. Upon the expiration of a regularly approved leave without compensation, the employee shall be reinstated to the position held at the time the leave was granted, or upon the request of the employee such leave may be extended. Such leave may be cancelled at any time and the employee concerned ordered to report back to his/her duties within a reasonable time. (Amended 4/15/88)

RULE XIII. PERFORMANCE EVALUATIONS

(Amended 11/17/89; 04/20/01)

SECTION 1: ORIGIN, DEFINITIONS, AND PURPOSE

- (a) **ORIGIN:** Section 2, Paragraph L, Special Acts of 1937, Chapter 18696 (H.B. No. 687), authorizes the Personnel Department to: "Establish by rule a system of service ratings based on records of attendance, performance, conduct, and output of each officer or employee in the Classified Service and designated as far as may be possible to reflect his worth to the City".
- **(b) DEFINITIONS:** For the purposes of this Rule, the following definitions shall apply:
 - 1. "SERVICE RATING" is defined as all formal or informal systems of performance evaluations for measuring or describing the performance, output, conduct, and attendance of all employees in the Classified Service of the City.
 - **2.** "EVALUATORS" for the System shall be Appointing Officers of the City and their designated supervisory employees.
 - 3. "EMPLOYEES" shall include all persons in the Classified Service of the City.

(c) **PURPOSE**:

- 1. Performance evaluation reports of employees shall be evaluated and records maintained under the supervision of the Director of Personnel, and such reports shall be a part of the procedures determining, but not the sole determinant of salary increases or decreases, promotions, demotions, transfers, separations, or other personnel status changes, where such reports are pertinent and of value in making intelligent and fair decisions thereon.
- 2. (a) Upon the recommendation of the Personnel Director, with concurrence of the City Manager and the approval of the Personnel Board, performance evaluation reports shall not be required for designated administrative personnel and/or personnel on special assignment.
 - (b) If, because of unusual circumstances, the Personnel

Director believes that no evaluation should be given for a particular employee during any particular evaluation period, the Personnel Director shall have the authority to waive the evaluation for such employee for that particular period. The waiver of an evaluation hereunder shall not be construed either favorably or unfavorably in regard to the employee involved.

3. It is the intent of this Rule to promulgate and promote a policy to enhance the morale, incentive, and industry of the City's employees.

SECTION 2: EVALUATORS

- (a) AUTHORITY: The Director of Personnel shall designate the Appointing Officers of the City as evaluators and shall delegate to them the authority to designate evaluators from among their supervisory personnel. The Appointing Officer shall provide the Director of Personnel with a record of all such appointments and any subsequent changes in appointments.
- (b) **RESPONSIBILITIES:** As set forth in this Rule and in accordance with directives of the Director of Personnel, evaluators shall be responsible for the timely and accurate preparation and submission of performance evaluation reports for the employees of their assigned responsibility. Evaluators shall attest to the validity and accuracy of their reports, as having been prepared to the best of their ability, observation, and knowledge.
- (c) **TRAINING:** The Director of Personnel shall provide a continuing program of orientation and training for all evaluators, which will explain to and instruct the evaluators in the purpose and techniques of performance evaluations. Each evaluator must participate in an introductory training course. After the initial training is completed, evaluators will be retrained only at the request or recommendation of the Department Head, Personnel Director, or Personnel Board, and in such further courses as may be required by the Personnel Director.

SECTION 3: APPEALS

- (a) The Personnel Board shall adopt and publish practices and procedures enabling employees and department heads to appeal performance evaluations. Appeals shall be permitted for performance levels of less than 5 for individual factors on a performance evaluation report and less than 50 for overall evaluations. All appeal requests must be filed in writing within ten (10) days following notification to the employee of the overall evaluation. If the performance level, for either an individual factor or an overall evaluation is appealed and the appeal results in a finding in favor of the employee, the evaluation shall be raised to 5 for individual factors and to 50 for overall evaluations, as applicable. Any employee whose last performance evaluation was less than 50 overall shall be disqualified from any promotional examination until such time as he/she receives a 50 or better evaluation. (Adopted 10/16/98) (Amended 3/18/05)
 - 1. **Personnel Board:** At such appeals, the Personnel Board shall permit the parties involved to present such evidence as the Personnel Board deems pertinent to the issue.

Testimony taken before the Personnel Board shall be reported and transcribed at the cost of the party desiring such testimony to be part of the record.

(b) VOTING: In all cases a simple majority vote will control.

- **SECTION 4: PERFORMANCE EVALUATION REPORT:** There is hereby created a performance evaluation report hereinafter called the Performance Evaluation Report, which will be prepared no less than annually for each employee.
 - (a) **PURPOSE:** The Performance Evaluation Report shall be designed so far as possible to accurately measure the value of an employee's performance with respect to the critical factors of his/her job classification and his/her overall responsibilities to conditions of employment. It will become a permanent and integral record of his/her employment and will be utilized within the purview of Section 1(c) of this Rule.

(b) FORMS:

- 1. Forms shall be designed and distributed by the Director of Personnel. Such forms will describe the several critical factors of the job classifications being evaluated, and insofar as possible, provide a reliable means for accurately measuring the work performance of the employees. They shall provide for descriptions of the employee's fulfillment of conditions of employment.
- 2. Forms will be completed by the evaluators, and discussed with the individual employees before being submitted to the Director of Personnel for permanent record.
- (c) **EVALUATIONS:** Performance levels shall be used to describe the employee's performance, and standardized descriptions shall be used to describe the employee's adherence to conditions of employment. Performance evaluations of AMeets Expectations" shall be the minimum acceptable standard for Classified employees. Receipt of two (2) consecutive overall performance evaluations of less than 50, or two (2) consecutive overall performance evaluations of "Unsatisfactory", or a combination thereof, shall be sufficient grounds for disciplinary action. It shall be mandatory that such disciplinary action be taken by the appropriate Appointing Officer. (Amended 4/20/01)

SECTION 5: SPECIAL AWARDS: All Classified and Unclassified employees shall be eligible for special awards to be granted annually. The awards period will be on a fiscal year basis, commencing October 1st and ending September 30th. (Amended 7/21/95)

(a) SPECIAL AWARDS

- 1. Beyond the Call of Duty (Extra Mile Award): For brave and courageous acts performed during or beyond course of duties. Involves exposure to extreme danger in saving and/or protecting lives and/or property (Amended 08/19/2005).
- 2. City Achievement Award: For specific contribution to the betterment of the department or City's operation in the form of development of new methods and/or procedures; ideas or suggestions resulting in the saving of time, labor and/or money to the City.
- 3. Community Service Award: For employees who, in addition to valuable contributions to the City service in the nature of continued loyal and efficient performance, have made vital and valuable contributions to community, civic, educational, athletic and/or related fields in the community (Amended 08/19/2005).
- **4. Safety Award:** For original ideas or suggestions on methods, procedures, or equipment which, when implemented, resulted in a reduction of on-the-job injuries, or in the removal or reduction of a substantial safety hazard to employees.
- **5. Customer Service Award:** Displayed customer service which has been witnessed and documented (Created 08/19/2005).
- (b) NOMINATIONS: Nominations are to be made during a fiscal year, commencing October 1st and ending September 30th. Nominations must be submitted on standard questionnaires supplied by the Personnel Department. Recommendations for awards will be accepted from department heads and all other City employees.
- (c) **REVIEW AND SELECTION:** The awards nominations will be reviewed thoroughly by the Personnel Board. The Board may select one winner and three runners-up for each category. At the discretion of the Board, committees may be appointed to investigate thoroughly the substantiation submitted to determine the validity of the evidence presented and the worthiness of the nominations. The decision of the Board shall be final. There will be no appeal procedure. It will be the responsibility of the Board

to ascertain, beyond a shadow of a doubt, the validity of the substantiations submitted and that the final selections are, to the best of their knowledge, the most deserving.

RULE XIV. EMPLOYEE TRAINING

SECTION 1: ADJUSTMENT OF NEW EMPLOYEES AND TRAINING

The head of each division shall be responsible for the instruction and training of employees in the specific duties of their positions and for explaining the policies, objectives, and methods of the divisions and their operations. On request, the Personnel Director shall cooperate with the heads of divisions in establishing training programs.

SECTION 2: IN-SERVICE TRAINING

The Personnel Director in cooperation with the Appointing Officer and with the approval of the City Manager shall arrange for lectures, courses, demonstrations, and discussions and shall prepare lists of texts on appropriate subjects and take any other action for facilitating the efforts of employees and officers to increase their efficiency, broaden their knowledge, and become more effective in the performance of their respective duties.

SECTION 3: OTHER TRAINING

Employees who enroll and successfully complete extension, correspondence, or other special training courses shall report to the Personnel Director their actions and progress and he/she shall offer such advice and assistance as may be within his/her power. Where the completion of such courses may be deemed to have definitely increased the effectiveness of the employees, they may, at the discretion of the Personnel Director, be considered in making advancements and promotions.

RULE XV. LEAVES FOR NATIONAL EMERGENCY PURPOSES

This Rule is adopted to cover situations occurring during and because of the participation by the United States in any armed conflict either by, or as the result of, a declaration of war, as an active combatant by direction of the United Nations, or during periods when the Armed Forces of the United States are calling or re-calling persons to involuntary active military duty. The provisions hereinafter set forth shall be applicable only, and limited to, the times and conditions set forth, and shall be effective only for a sufficient time thereafter to protect the Civil Service rights of those employees and officers of the City affected thereby; and during these times, the provisions of this Rule shall take precedence over any contrary provisions of the Personnel Rules. The provisions of this Rule shall apply to employees entering service as members of the Armed Forces under the following conditions:

CONDITION 1:

During the times when the United States is an active combatant in any wars, those employees who voluntarily enlist or are commissioned in the Armed Forces, those employees who are drafted into the Armed Forces, and those employees who are called to active military duty from reserve status or as members of the National Guard.

CONDITION 2:

During times when the Armed Forces of the United States are involuntarily calling or re-calling persons to active military duty, but when the United States is not an active combatant in any war, those employees who are involuntarily called to active military service in the Armed Forces, either by drafting or by being called to active military service from reserve status or as members of the National Guard.

The Personnel Board shall have wide latitude in construing the meaning and intent of this paragraph to ensure that persons having Civil Service rights with the City of Miami Beach are provided with the maximum protection against conditions rising out of national security measures.

SECTION 1: PROVISIONAL EMPLOYEES: No rights under Rule XV shall accrue to employees occupying positions under Provisional status.

SECTION 2: PERSONS ON ELIGIBLE LISTS: Those persons whose names are on eligible lists for employment, re-employment, or promotion, and who by reason of service as members of the Armed Forces of the United States under Condition 1 and 2 above, are not available for appointment, shall not lose their eligibility thereby. The names of such persons shall remain on such eligible lists during the normal life of the lists, and thereafter until six (6) months after their release from active duty, or six (6) months after they first become eligible for such release. If the lists shall expire by limitation and new lists are prepared, such persons shall take precedence over all persons on the respective new lists and shall retain the same relative order of preference as existed when the old lists expired. Appointments of such persons following their releases from active service with the Armed Forces shall be contingent upon suitable physical and mental condition for the work to be performed, and on a record of honorable service in the Armed Forces.

SECTION 3: PROBATIONARY EMPLOYEES

- (a) Service in the Armed Forces: Employees occupying positions under Probationary status who become members of the Armed Forces of the United States under Condition 1 or 2 above, upon proper notice to their Appointing Officers, shall have their names placed on the Re-Employment Eligible List for the classification to which their position belongs and shall be eligible for re-employment for one (1) year from the date of their discharge from the Armed Forces, or one (1) year from the date when they first become eligible for such discharge, provided that their physical and mental condition is such that they can perform the duties of the classification from which they left. If their physical and/or mental condition is not such that they can perform the duties of such classification, their names shall be placed on the Re-Employment Eligible List for other classifications for which they may be suited of an equal or lower grade.
- (b) Other National Defense Work: Employees occupying positions under Probationary status who voluntarily leave the service of the City to accept positions in the national defense program, other than in the Armed Forces, upon proper notice to their Appointing Officers shall be considered as resigning in good standing and their names shall be placed on the Re-Employment Eligible List for the classification to which their position belongs.

SECTION 4: REGULAR EMPLOYEES

(a) Service in the Armed Forces: Those Regular employees who became members of the Armed Forces under Condition 1 and 2 above, upon proper notice to their Appointing Officers, shall be granted military leaves of absence, which shall be effective until ninety (90) days after their honorable release from active service with the Armed Forces, or until ninety (90) days after they first become eligible for such release. Such employees shall be given credit for time served with the Armed Forces in computing any seniority rights, and if performance evaluations are made during such leave, they shall be credited each time with a "Satisfactory" evaluation.

(b) Other National Emergency Work

- 1. Voluntary Separations: Regular employees who voluntarily leave the service of the City to accept positions other than in the Armed Forces, if approved by their Appointing Officer and the City Manager, shall be granted non-military leaves of absence for limited periods, at the end of which time they will be required to either return to their duties with the City or submit their resignations. The failure to return or to submit a written resignation will be considered adequate grounds for removal. No seniority or other rights shall accrue during such periods of absence.
- 2. Requisitioned Employees: Regular employees who because of special abilities are positively and individually requisitioned by Federal authorities for civilian war connected or security duty, if their release is agreeable to their Appointing Officers, may, at the discretion of the City Manager, be granted leaves of absence under the same terms and conditions as apply to military leaves of absence for Regular employees who enter service with the Armed Forces under Conditions 1 and 2 above.
- 3. Substitute Employees: Persons appointed to temporarily fill positions held open for Regular employees granted leaves of absence as provided above, shall, so far as is practicable, be appointed from suitable eligible lists and shall hold these positions with substitute status. In the absence of suitable eligible lists, present employees, or other persons who possess the minimum qualifications for the vacant position may be selected as substitute employees by the Appointing Officers with the approval of the Director of Personnel, and such persons so selected shall be compensated within the scale provided for the classification to which the vacant position belongs, and may continue in such employment without time limitation other than the establishment of appropriate eligible lists, and no other rights in such classification shall accrue to any person not appointed from a suitable eligible list. If, by reason of death or total permanent disability of a person on military leave, the

position becomes permanently vacant, the substitute employee who is occupying such position, if he/she shall have been appointed from an appropriate eligible list and shall have served for nine (9) or more months in such position, shall, upon recommendation of the Appointing Officer immediately attain Regular status; or if he/she shall have served for less than nine (9) months in such position, he/she shall immediately acquire Probationary status and at the completion of nine (9) months from the date of the original substitute appointment, shall be eligible for Regular status. No seniority credit shall be given for time served under substitute status unless as a result thereof the employee shall receive a Regular appointment, in which case he/she shall receive credit for only that time required as a Probationary period, and except that Regular employees who may be given substitute appointments in higher classifications than those to which they properly belong shall receive credit in their Regular classification.

4. **Promotional Examinations:** Any Regular employee who has been granted a military leave of absence under the terms of this Rule, and who is unable to participate in any promotional examination for which he/she might be eligible, if the eligible list resulting from such examination shall be in effect at the time of his/her return to City duties, upon demand, shall be given an individual test of the same degree of difficulty, provided that he/she met the minimum qualifications for the higher classification at the time of his/her being granted such leave. If he/she shall successfully pass such examination, his/her name shall be fitted into the existing eligible list in order of score, and his/her eligibility shall continue for the life of the list.

SECTION 5: WAR CASUALTIES: Regular employees who are granted military leaves of absence, and who are incapacitated mentally or physically while in the service of the Armed Forces, insofar as is practicable, shall be provided with employment within their ability to perform in the department from which they were granted military leave, or other department as may be arranged by the City Manager. The rate of pay of such incapacitated employee shall not be less than seventy percent (70%) of the pay he/she would be entitled to in the classification from which he/she was granted military leave.

RULE XVI. MEDICAL AND PHYSICAL STANDARDS

- **SECTION 1: APPLICANTS FOR EMPLOYMENT:** The Personnel Director, with the approval of the Personnel Board, is authorized to adopt physical and medical standards which are to be required of all applicants for positions in the Classified Service.
- **SECTION 2: EMPLOYEES:** The Personnel Director, with the approval of the Personnel Board, is authorized to adopt physical and medical standards which are to be required of all Classified Service employees.
 - (a) When an employee in the Classified Services fails to meet such physical and medical standards as are deemed necessary for continued employment in the position he/she holds, a lateral or organizational transfer shall be made, if practical, to a position for which he/she is physically qualified, notwithstanding other provisions of these Rules. If a transfer cannot be arranged, the provisions of Rule IX, Section 4 and Section 5 will apply. Any transfer or demotion made in accordance with this Rule is subject to approval of the City Manager and the Personnel Director. This paragraph shall not apply to Police Officers and Fire Fighters with respect to transfers outside of their respective departments.
 - (b) An employee of the City who, as part of his/her duty, operates a motor vehicle and who has acceptable vision only when wearing corrective lenses must, at all times while engaged in driving, wear such corrective lenses. An employee who fails to wear required corrective lenses while driving is subject to disciplinary action as provided in Rule X.